



Docket No.: SOA-0394
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Ellen Glassman, et al.

Application No.: 10/803,560

Confirmation No.: 5967

Filed: March 17, 2004

Art Unit: 3714

For: METHODS AND APPARATUSES FOR
DISPLAYING INTERACTIVE CONTENT
THROUGH A DEVICE

Examiner: Jasson H. Yoo

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a Reply Brief under 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed on September 17, 2007.

All arguments presented within the Appeal Brief of June 21, 2007 are incorporated herein by reference. Additional arguments are provided herein.

STATUS OF CLAIMS:

Claims 28-44 are pending in this application and are the subject of this Appeal. All of the pending claims have been rejected. As noted in the Appeal Brief, all of the claims shall stand or fall together for the purposes of this Appeal.

GROUND OF REJECTION:

In the Final Office Action of December 27, 2006, all of the pending claims 28-44 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,508,706 to Sitrick et al. ("Sitrick"). The Examiner's Answer relies upon the same grounds of rejection.

In the Appeal Brief mentioned above, Appellants provided various arguments countering these grounds of rejection, and the arguments found in the Brief are incorporated herein.

The following issues are specifically raised by the Examiner and further addressed in this Reply Brief:

(1) Whether Sitrick discloses "*displaying ... an animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device,*" as claimed by Appellant.

ARGUMENT:

In the Final Office Action of December 27, 2006, the Examiner erred in rejecting claims 28-44 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,508,706 to Sitrick et al. ("Sitrick").

The Examiner erred in rejecting claims 28-44 under 35 U.S.C. § 102(e) as being anticipated by Sitrick:

Independent claim 28 recites: *[a] method for displaying synchronized contests involving characters associated with portable devices, the method comprising:*

associating with a first portable device a first character having a first status level;

detecting a second portable device within a proximity of the first portable device, a second character having a second status level being associated with the second portable device;

comparing the first status level with the second status level; and

displaying on the first portable device an animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device, with an outcome of the contest being determined based upon the comparison of the first and second status levels.

These claimed features are neither disclosed nor suggested by Sitrick. As previously noted, Sitrick discloses an electronic trading card (ETC) that provides feedback to a user relating to group social behavior through implementation of interaction rules. (Sitrick, Abstract). A “persona” corresponding to an ETC device may have numerous attributes. (Sitrick, 7:65-8:57). Various interactions, such as where one ETC asks for or provides information to another, are described. (Sitrick, 8:58-9:27). Transfer of possessions pursuant to such interaction is governed by the rules. (Sitrick, 9:28-35).

The Examiner has alleged the Sitrick discloses “*displaying on the first portable device an animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device,*” as claimed by Appellant, with references to various passages in Sitrick cited in support of the conclusion that the reference discloses such features. (Office Action dated 12/27/06, at p. 5). However,

none of these passages, and nothing in the remainder of the reference discloses or suggests these claimed features.

The Examiner initially refers to Sitrick at 8:7-13 and 9:15-56 in support of the conclusion that Sitrick discloses an animated graphical display involving a contest. (Office Action dated 12/27/06, at p. 5, lines 3-5). The first passage merely describes how the ETC may have variables that may be modified at manufacture or as a result of interaction with other devices and experiences that result from usage. There is no mention whatsoever of an animated graphical display involving a contest.

Column 9, lines 15-56 of Sitrick covers various points. An initial portion appears to state that interaction (between ETCs) may result in transfers of "Possessions", and that such transfers might be based upon rankings in certain categories (*e.g.*, Aggressiveness, Sexuality, Appearance). (Sitrick, at 9:15-26). Then, specific examples of Possessions that are transferable are described, namely Wealth, Wisdom, Health, Rank, and Sex. (Sitrick, at 9:27-45). Finally, it is noted that the active game may be divided into a discovery phase, involving learning about neighbors, and an active play phase, involving requests for more information and requests and demands for possessions. (Sitrick, at 9:46-56). The cited passage thus describes details with regard to how possessions might be transferred. There is absolutely no description of an animated graphical display involving a contest between characters, etc., as claimed.

Sitrick repeatedly describes group social behavior and corresponding interactions between personas. Any reference to the results of such interactions appears to address the maintenance of certain possessions. For example, wealth, wisdom, health, rank and sex are said to be transferred (*e.g.*, given, or taken), but there is no disclosure or suggestion of a battle or other type of animated graphical display involving a contest between characters. There is no apparent description of a synchronized contest generally, and certainly no disclosure or suggestion of providing such a synchronized display as a single continuous event on both the first and second portable devices.

The next passage cited by the Examiner states that:

"[t]he transfer can alternatively result in a change to the value of the respective variables of both devices in the transfer, or only result in a change to the value of the respective variable in only one of the devices in the transfer. The transfer of the value for the respective variable is governed by predefined rules associated

with the respective variable. Each device can communicate with at least one of the players and at least another one of the devices. The device communicates at any given time with only one of the other ones of the devices. Each device can provide an active game with an associated display. The active game is divided into phases comprising a discovery phase and an active play phase.”

(Sitrick, at 4:46-58).

This passage merely reiterates what is noted above regarding Sitrick. That is, the interaction among personas represented in respective ETC devices results in a comparison and then some kind of transfer. In a discovery phase, information about the personas is discovered, and in an active play phase the transfer is accommodated. There is no mention of an animated graphical display of a contest, particularly one that is shown as a synchronized single continuous event on both the first portable device and the second portable device, as claimed by Appellant. The Sitrick reference merely states that the device can provide an active game, meaning the game is underway, with an associated display, meaning that some kind of display is made in association with the game. There is no mention of an animated graphical display of a contest, or of a synchronized single continuous event in two devices, as claimed by Appellant.

Finally, the Examiner cites column 6, lines 55-62 and column 11, lines 7-22 as alleged further support for the disclosure of these claimed features. (Office Action dated 12/27/06, at p. 5, lines 6-10). However, these passages also fail to disclose the claimed features of an *“animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device...”* in the cited passages. Column 6, lines 55-62 mentions that “interaction may be further enhanced by adding mechanical motion or visual display, allowing, for example, eye motion, facial expression, or hand gestures.” (Sitrick, at 6:55-62). This passage appears to describe interaction between a user and the ETC. There is no mention of “eye motion, facial expression, or hand gestures” being between first and second characters from separate portable devices, and absolutely no detail or any kind of discussion of such interaction occurring. In any event, even presuming that such is the case (which would be inappropriate conjecture, and not disclosed in the reference), there would still be not disclosure in this passage of an animated graphical display of a contest as a synchronized single continuous event as claimed.

Column 11, lines 7-22 appears to describe how changes in a “persona” and a “world view” may be executed, but again there is no mention of any kind regarding an “*animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device...*” Thus each of the passages cited by the Examiner fails to disclose the features recited in Appellant’s claim.

Indeed, throughout the Sitrick reference, there is no mention of a battle or other contest involving an animated graphical display between first and second characters, as a synchronized single continuous event or otherwise. Instead, the “game” in the Sitrick reference is clearly a transfer of possessions that occurs based upon various rules and corresponding variables. This is quite clear based upon a review of the specific passages cited by the Examiner, or any objective reading of the reference. By way of example, FIGs. 6A-C and the corresponding description in Sitrick clearly describe the type of interaction that takes place between ETCs in the Sitrick reference. There is quite a bit of detail with regard to this type of interaction. By contrast, there is absolutely no description of an animated graphical display of a contest between characters as claimed. *At best*, there is a passing reference suggesting that a character in the ETC may move, without any description of the context in which such motion would occur. Thus, even in the best light, the reference in no way discloses the specifics of an animated graphical display of a contest between characters as a synchronized single continuous event on both devices, as claimed by Appellant.

The **Examiner’s Answer** essentially repeats the citations to the passages alleged to disclose an “*animated graphical display of a contest between the first and second characters, wherein the animated graphical display of the contest is displayed as a synchronized single continuous event on both the first portable device and the second portable device...*” However, Appellant notes again that at best the possibility of motion on a displayed character is mentioned in passing. There is no mention of an “*animated graphical display of a contest between the firsts and second characters*” in any part of the Sitrick reference. The possibility that a displayed character corresponding to the ETC may use “eye motion, facial expression, or hand gestures” (Sitrick, at 6:55-62) is in no way an animated contest between first and second characters.

Thus, the above-described feature is not shown on a single device, let alone as a *“synchronized single continuous event on both the first portable device and the second portable device,”* which of course is also not disclosed by Sitrick. With regard to this feature, the Examiner’s Answer states that:

“[a]s discussed above, the synchronized single continuous event could be a game event. For example, a car race contest could be a single continuous event. If two display devices display the same car race at the same time, at two different views, one display device displaying the cockpit view, and the other display device displaying a bird’s eye view, then the two display devices display a synchronized continuous event.”

(Examiner’s Answer, at p. 9).

The glaring problem with this argument is that none of this is disclosed in any way in the Sitrick reference. There is no mention of a car race, none whatsoever. Nor is there any mention -- not a single example -- of an animated contest between first and second characters. Thus, these arguments are wholly based upon speculation and not supported in any way by the disclosure actually presented in the Sitrick reference.

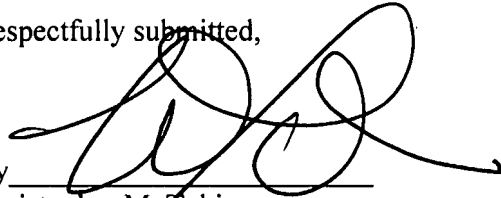
Accordingly, Sitrick clearly fails to disclose or suggest features recited in independent claim 28. For reasons similar to those provided regarding claim 28, independent claims 34 and 40 are also neither disclosed nor suggested by Sitrick. Claims 29-33, 35-39 and 41-44 respectively depend from independent claims 28, 34 and 40, and are thus distinct from Sitrick for their incorporation of the features recited therein, as well as for their separately recited, patentably distinct features.

For the foregoing reasons, Appellant respectfully requests reversal of the Examiner’s rejection of claims 28-44 under 35 U.S.C. § 102(e) as being anticipated by Sitrick.

Appellant believes no additional fee is due with this Reply Brief. However, if a fee is due, please charge our Deposit Account No. 18-0013, from which the undersigned is authorized to draw, under Order No. SOA-0394 .

Dated: November 19, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'CT', written over a horizontal line.

By

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